

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the application of	)	Examiner of Parent Application:
Fred H. Burbank <i>et al.</i>	)	M. Hindenburg
	)	
For: <b>BREAST BIOPSY SYSTEM AND</b>	)	Group Art Unit: 3736
<b>METHODS</b>	)	
	)	
Serial No.: Unassigned	)	
	)	
Filed: August 13, 2001	)	
	)	
Docket. No.: 26684-1001	)	

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Express Mail No.: EL 731 830 815 US

Mailed on: August 13, 2001

**PRELIMINARY AMENDMENT**

Assistant Commissioner of Patents  
Washington, DC 20231

Dear Sir:

Please preliminarily amend the above application as follows:

**IN THE CLAIMS**

**Please cancel without prejudice claims 1-16, 29 and 34-39.**

**Please replace claims 30, 31 and 33 as indicated below:**

30. (Amended) A method for retrieving a tissue specimen from a patient's body, comprising the steps of:

inserting an instrument having a distal end, a longitudinal axis, and an axially disposed cutting element into the patient's body, so that the distal end is disposed in a tissue region from which the tissue specimen is to be taken;

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radially extending said cutting element so that a portion thereof is radially outwardly spaced from the axis of said instrument;

rotating said cutting element about said axis to cut said tissue and create a peripheral boundary about said tissue specimen, to isolate the tissue specimen from surrounding tissue in the tissue region; and encapsulating said tissue specimen.

31. (Amended) The method as recited in Claim 30, wherein the encapsulating of the tissue specimen includes radially expanding at least one encapsulating element so that a portion thereof is radially outwardly spaced from the axis of said instrument and rotating said instrument about its axis so that said at least one encapsulating element encloses said tissue specimen.

33. (Amended) The method as recited in Claim 30, and further comprising proximally withdrawing said instrument, with the encapsulated tissue specimen, from the patient's body, and including cutting tissue as the instrument is withdrawn.

**Please add the following new claims:**

40. An elongated device for accessing a tissue site, comprising:
- a. an elongated shaft having proximal and distal ends;
  - b. a thin cutting electrode secured to the distal end having a blunt activatable tissue engaging portion spaced distally from the distal end of the shaft; and
  - c. an elongated electrical conductor having one end electrically connected to the thin electrode secured to the distal end and one end configured to be electrically connected to a high frequency electrical power source.

41. The elongated accessing device of claim 40 wherein the thin electrode secured to the distal end of the elongated shaft is formed of conductive metallic material.

42. The elongated accessing device of claim 40 wherein the elongated shaft is provided with a cutting member at a location spaced proximally from the distal end of the elongated shaft.

43. The elongated accessing device of claim 42 wherein the cutting member spaced proximal to the distal end has a radially unexpanded configuration and a radially expanded configuration.

44. The elongated accessing device of claim 43 wherein the cutting member is at least in part arcuate in shape when in a radially expanded configuration.

45. The elongated accessing device of claim 44 wherein the cutting member is a tissue cutting electrode.

46. The elongated accessing device of claim 45 wherein an electrical conductor is provided having one end electrically connected to the cutting member and one end configured to be electrically connected to a high frequency electrical power source.

47. The elongated accessing device of claim 46 wherein the arcuate cutting member is rotatable about a longitudinal axis of the elongated shaft.

48. A biopsy device, comprising:

a tubular member having an opening near a distal tip thereof;

a cutting tool, a distal end of the cutting tool being attached near the distal tip of the tubular member, at least a distal portion of the cutting tool being configured to selectively bow out of the opening and to retract within the opening; and

a tissue collection device externally attached at least to the tubular member, the tissue collection device collecting tissue severed by the cutting tool as the biopsy device or a portion thereof is rotated and the cutting tool is bowed.

49. A biopsy device, comprising:

a single use disposable tubular member having an opening near a distal tip thereof, the tubular member including a cutting tool, a distal end of the cutting tool being attached near the distal tip of the tubular member, at least a distal portion of the cutting tool being configured to selectively bow out of the opening and to retract within the opening; and

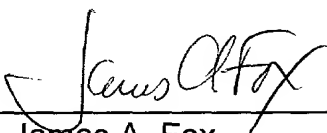
a single use disposable tissue collection device externally attached at least to the tubular member, the tissue collection device collecting tissue severed by the cutting tool as the biopsy device is rotated and the cutting tool is bowed.

## REMARKS

Applicants believe the pending claims define patentable subject matter and respectfully request consideration and an early allowance thereof. Applicants also wish to bring to the attention of the Examiner that claims 48 and 49 are essentially the same as claims 1 and 21 found in US Patent 6,022,362. The '362 patent has a filing date after the filing date of the provisional application upon which the present application relies upon for priority as well as the filing date of the present application.

Attached hereto is a marked-up version of the changes made to the claims by the Preliminary Amendment. The attached page is captioned "**Marked-Up Copy of Amended Claims**".

Respectfully submitted,

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MARKED UP COPY OF AMENDED CLAIMS

30. (Amended) A method for retrieving a tissue specimen from a patient's body, comprising the steps of:

inserting an instrument having a distal end, a longitudinal axis, and an axially disposed cutting element into the patient's body, so that the distal end is disposed in a tissue region from which the tissue specimen is to be taken;

radially extending said cutting element so that a portion thereof is radially outwardly spaced from the axis of said instrument;

rotating said cutting element about said axis to cut said tissue and create a peripheral boundary about said tissue specimen, to isolate the tissue specimen from surrounding tissue in the tissue region; and

[The method as recited in Claim 29, and further comprising the step of] encapsulating said tissue specimen.

31. (Amended) The method as recited in Claim 30, wherein the encapsulating [step] of the tissue specimen includes [the step of] radially expanding at least one encapsulating element so that a portion thereof is radially outwardly spaced from the axis of said instrument and rotating said instrument about its axis so that said at least one encapsulating element encloses said tissue specimen.

33. (Amended) The method as recited in Claim 30, and further comprising [the step of] proximally withdrawing said instrument, with the encapsulated tissue specimen, from the patient's body, [said step] and including [the step of] cutting tissue as the instrument is withdrawn.